



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 28, 2004

Mr. J. Kevin Patteson  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR2004-8227

Dear Mr. Patteson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 209964.

The Office of the Governor (the "governor") received a request for "all documents and correspondence related to the Low-Level Radiation Waste Disposal Compact received or sent through the governor's office over the past two months." Although the governor originally sought to withhold all of the requested information, you inform us that the governor is withdrawing his request for a decision with respect to some of the requested information because he has released it to the requestor. Accordingly, this ruling does not address the information that has been released. You claim that the information that has not been provided to the requestor is excepted from disclosure pursuant to section 552.111 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

We note that the submitted information is subject to a previous determination of this office issued as Open Records Letter No. 2004-8097 (2004) on September 22, 2004. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the prior ruling concluded that the precise records or information are or are not excepted

from disclosure under the Public Information Act (the "Act"); and 4) the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). Based upon your representations and our review of the submitted information, we determine that the present request arises under the same facts and circumstances at issue in Open Records Letter No. 2004-8097. Consequently, we determine that the governor may continue to follow our ruling in Open Records Letter No. 2004-8097 with respect to the submitted information.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

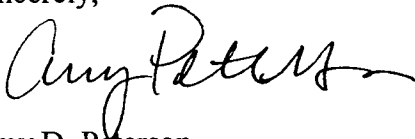
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<sup>1</sup>Because we are able to make this determination, we do not address your arguments under section 552.111 of the Government Code.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Peterson", with a stylized flourish at the end.

Amy D. Peterson  
Assistant Attorney General  
Open Records Division

ADP/sdk

Ref: ID# 209964

Enc. Submitted documents

c: Ms. Christy Hoppe  
Austin Bureau Chief  
The Dallas Morning News  
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(w/o enclosures)